

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7888

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DWIGHT LAMONT HUNTER,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Graham C. Mullen, Chief District Judge. (CR-94-111-MU; CA-00-71-3-2-MU)

Submitted: June 25, 2004

Decided: August 3, 2004

Before MICHAEL, MOTZ, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Dwight Lamont Hunter, Appellant Pro Se. Robert James Conrad, Jr., United States Attorney, Douglas Scott Broyles, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Dwight Lamont Hunter appeals from the district court's denial of his motion filed under Fed. R. Civ. P. 60(b) for relief from the district court's prior judgment denying his 28 U.S.C. § 2255 (2000) motion to vacate his sentence. An appeal may not be taken from the final order in a habeas corpus proceeding unless a circuit judge or justice issues a certificate of appealability. See Reid v. Angelone, 369 F.3d 363, 370 (4th Cir. 2004); 28 U.S.C. § 2253(c)(1)(2000). This court will not issue a certificate of appealability as to claims denied by a district court on procedural grounds unless the movant can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir. 2001) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)).

We have reviewed the record and determine that Hunter has not made the requisite showing. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED